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FIRST GENERAL COUNSEL'S REPORT

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MUR 6946

DATE COMPLAINT FILED: June 24, 2015

DATE OF LAST RESPONSE: September 25, 2015

DATE ACTIVATED: October 13, 2015

EXPIRATION OF SOL: May 7, 2020

ELECTION CYCLE: 2016

COMPLAINANT:

Nagender Madavaram

RESPONDENT:

Democratic National Committee
President Barack Obama
Nara Lokesh

**RELEVANT STATUTES
AND REGULATIONS:**

52 U.S.C. § 30121(a)¹
11 C.F.R. § 110.20

INTERNAL REPORTS CHECKED:

Disclosure reports

FEDERAL AGENCIES CHECKED:

None

I. INTRODUCTION

The Complaint in this matter alleges that a foreign national, Nara Lokesh, made a prohibited contribution to the Democratic National Committee ("DNC") by paying for a ticket to attend a DNC fundraising event at which President Barack Obama appeared, and that the DNC received the contribution from Lokesh, in violation of the Federal Election Campaign Act of 1971, as amended.

The available information demonstrates that a U.S. citizen paid for the ticket Lokesh used to attend the event as a guest. Thus, this Office recommends that the Commission find no reason to

¹ On September 1, 2014, the Federal Election Campaign Act of 1971, as amended (the "Act"), was transferred from Title 2 to new Title 52 of the United States Code.

1 believe that Lokesh made or that the DNC or President Obama accepted a prohibited foreign
2 national contribution in violation of 52 U.S.C. § 30121(a).

3 **II. FACTUAL BACKGROUND**

4 On May 7, 2015, the DNC organized a fundraising event in Portland, Oregon, for the
5 2016 White House Victory Fund.² President Obama attended the event, and tickets ranged from
6 \$500 to \$10,000.³ According to the Complaint, Nara Lokesh, a foreign national who is a
7 politician in India, attended the event and had a photograph taken with President Obama.⁴ Based
8 on these facts, the Complaint alleges that Lokesh or another person paid \$10,000 to the DNC to
9 allow Lokesh to attend the event, and that this payment violated the Act's prohibition on foreign
10 national contributions.⁵

11 Respondents contend that there is no violation of the Act and ask the Commission to
12 dismiss this matter. The Response for the DNC concedes that the DNC hosted a fundraising
13 event in Portland featuring President Obama.⁶ The Response states that Lokesh attended the
14 event as a guest of Raju Indukuri, a U.S. citizen who had paid \$20,000 for tickets to the DNC
15 event.⁷ The Response further states, however, that Lokesh himself did not make a contribution
16 to the DNC.⁸ As explained in the DNC's Response, to make an online contribution to the DNC,
17 Indukuri clicked the "Donate" button on the DNC's online contribution page, which required

² Compl. at 1.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ DNC Resp. at 1.

⁷ *Id.*; see also DNC Resp. App. A (copy of U.S. passport for Raju Indukuri).

⁸ DNC Resp. at 1.

1 Indukuri to affirm that the funds that he was donating were not provided to him by another
2 person or entity for the purpose of making the contribution and that he was a United States
3 citizen or permanent resident.⁹ President Obama's Response notes the DNC's direct response to
4 the allegations and further contends that the Complaint presents no facts that describe a violation
5 of the Act or Commission regulations by President Obama.¹⁰

6 Lokesh's Response asserts that he is, in fact, a foreign national, but that he attended the
7 DNC event as a personal guest of Indukuri.¹¹ The Response also states that Indukuri charged the
8 \$20,000 that Indukuri paid to the DNC on his personal credit card, that Indukuri paid the credit
9 card bill from his own funds, that Indukuri was not reimbursed by any person, and that the
10 payment was not made on behalf of anyone except for Indukuri himself.¹² The Response states
11 that Indukuri took Lokesh and another friend, a U.S. citizen, to the DNC event, and that the three
12 men each had their photograph taken with President Obama.¹³ Finally, Lokesh's Response notes
13 that the contribution was reported by the DNC on its May 2015 Monthly Report to the
14 Commission.¹⁴

⁹ *Id.* at 1-2; *see* Advisory Op. 2011-13 (Democratic Senatorial Campaign Committee) (finding that similar affirmations required of contributors on a committee's webpage provides a sufficient safeguard at the time of solicitation for the committee to ensure that it is not accepting prohibited contributions, such as contributions from a foreign national or a contribution in the name of another).

¹⁰ Obama Resp. at 1.

¹¹ Lokesh Resp. at 1.

¹² *Id.*; *see also* Lokesh Resp. Exh. B (copy of DNC contribution card indicating that Indukuri used his personal credit card to make a contribution to the DNC).

¹³ Lokesh Resp. at 1.

¹⁴ *Id.*

1 **III. LEGAL ANALYSIS**

2 The Act prohibits a foreign national, directly or indirectly, from making a contribution or
3 donation of money or other thing of value in connection with a Federal, State, or local election,
4 or to a committee of a political party.¹⁵ Correspondingly, the Act prohibits persons from
5 soliciting, accepting, or receiving a contribution or donation, as described in
6 Section 30121(a)(1)(A) and (B), from a foreign national.¹⁶ A "foreign national" is an individual
7 who is not a citizen of the United States or a national of the United States and who is not
8 lawfully admitted for permanent residence.¹⁷ A "contribution" includes any gift, subscription,
9 loan, advance, or deposit of money or "anything of value" made for the purpose of influencing
10 any election for Federal office.¹⁸ Provided that a foreign national does not make a contribution
11 of personal funds to attend a fundraising event, the Act does not prohibit a foreign national from
12 attending such an event.¹⁹

13 In this case, we have no evidence that Lokesh made a contribution to the DNC. To the
14 contrary, the Responses credibly demonstrate that Indukuri, a U.S. citizen, made a contribution
15 to the DNC to obtain tickets to the event, that this contribution was not reimbursed by nor made

¹⁵ 52 U.S.C. § 30121(a)(1)(A), (B); 11 C.F.R. § 110.20(b) and (c).

¹⁶ *See* 2 U.S.C. § 30121(a)(2); 11 C.F.R. § 110.20(g). A person knowingly accepts a prohibited contribution if that person has actual knowledge that funds originated from a foreign national, is aware of facts that would lead a reasonable person to conclude that there is a substantial probability that the source of the funds solicited is a foreign national, or is aware of facts that would lead a reasonable person to inquire whether the source of funds is from a foreign national but failed to conduct a reasonable inquiry. *See* 11 C.F.R. § 110.20(a)(4).

¹⁷ 52 U.S.C. § 30121(b)(2).

¹⁸ 52 U.S.C. § 30101(8)(A)(i); 11 C.F.R. § 100.52(a). Additionally, a foreign national may not directly or indirectly make an expenditure, an independent expenditure, or a disbursement in connection with a Federal, State, or local election. 52 U.S.C. § 30121(a)(1)(C); 11 C.F.R. § 110.20(f).

¹⁹ *See* 52 U.S.C. § 30121(a)(1)(B); Advisory Op. 2004-26 (Weller) (finding that a foreign national may "attend fundraising and campaign events . . . provided she does not make a contribution of her personal funds in order to attend.").

1 on behalf of Lokesh, and that Lokesh attended the event as a personal guest of Indukuri. Thus,
2 there is no reasonable basis to conclude that Lokesh made a prohibited foreign national
3 contribution to the DNC, or that the DNC accepted any contributions from Lokesh, in violation
4 of the Act.

5 Accordingly, we recommend that the Commission find no reason to believe that Lokesh
6 made, or that the DNC and Obama accepted, a prohibited contribution in violation of 52 U.S.C.
7 § 30121(a).

8 **IV. RECOMMENDATIONS**

- 9 1. Find no reason to believe that the Democratic National Committee violated 52 U.S.C.
10 § 30121(a).
- 11 2. Find no reason to believe that President Barack Obama violated 52 U.S.C. § 30121(a).
- 12 3. Find no reason to believe that Nara Lokesh violated 52 U.S.C. § 30121(a).
- 13 4. Approve the attached Factual and Legal Analysis.
- 14 5. Approve the appropriate letters.

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